IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

CRP.No. 930 of 2007()

AGAINST THE ORDER DATED 28/09/2007 IN IA 6375/1997 IN OS.802/1997 of II ADDL.M.C.,THRISSUR
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REVN. PETITIONERS: PETITIONERS/DEFENDANTS
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1. SARA, W/O. PUTHIRI DEVASSY, AGED 68,
TEKKE ANGADI, THRISSUR VILLAGE, THRISSUR TALUK.

2. BABU, S/O. SARA & DEVASSY,
TEKKE ANGADI, THRISSUR VILLAGE,
THRISSUR TALUK. (DIED)

3. BABY, D/O. SARA & DEVASSY, AGED 48,
TEKKE ANGADI, THRISSUR VILLAGE, THRISSUR TALUK.

BY ADV. SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENTS: RESPONDENTS/PLAINTIFFS

THRISSUR KALDAYA SURIYANI PALLI,
REPRESENTED BY TRUSTEES,

1. PAUL, S/O. MULAKKAL
INASU, CHELAKKOTUKARA DESOM, CHIYYARAM VILLAGE,
THRISSUR TALUK.

2. JOHNSON, S/O. ARIMBOOR MOOPPAN
ANTHAPPAN, CHEMBUKKAVU VILLAGE, THRISSUR TALUK.

3. THOMAS, S/O. MAPRANAM ANTHAPPAN,
KURIYACHIRA DESOM, CHIYYARAM VILLAGE,
THRISSUR TALUK.

4. PAULCY JOSEPH, S/O. CHEERAMBAM JOSEPH,
CHEMBUKKAVU VILLAGE, THRISSUR TALUK.

5. IGNATIOUS, S/O. MANGALATHUKARAN ANTHONY, CHEMBUKKAVU VILLAGE, THRISSUR TALUK.

6. JOSEPH JOHNY, S/O. KANGAPADAN JOSE, NEHRU NAGAR, CHIYYARAM VILLAGE, THRISSUR TALUK.

7. INASU, KUNAMTHUMKARA DESOM, OLLUKKARA VILLAGE, THRISSUR TALUK.

8. ANTONY, S/O. CHOVUKKARAN DEVASSY, CHEROOR DESOM, VILVATTOM VILLAGE, THRISSUR TALUK.

R1 BY ADV. SRI.K.JAYAKUMAR & SRI.P.B.KRISHNAN SRI.M.K.SREEGESH SRI.R.SURAJ KUMAR SMT.GEETHA P.MENON

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.2640 OF 2007
IN
C.R.P. NO.930 OF 2007

DISMISSED

30/11/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 930 OF 2007

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Dated this the 30th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. Munsiff, Thrissur in I.A.6375/97 in O.S.802/97. The question that was considered by the learned Munsiff was whether a reference is necessary to the Land Tribunal in the light of the contention of the defendant that he is a kudikidappukaran of the property. The Court below considered elaborately the Commissioner's plan and report. The Commissioner had found that there is a common wall for both the portions. There are two independent entrances for both the houses and two independent families are residing in those houses. What is to be considered is whether it is an independent building or not or only a portion of the building. The contention of the Church authorities is that it is only a portion of the building and one portion was leased out to the present defendants and other portion was leased out to a

different tenant. The other tenant also raised the very same contention which has been found against and eviction has been ordered. A perusal of the Commissioner's report which is produced as Annexure A2 would reveal that "the building in the petition schedule property shares common wall on its southern side with the building on its southern side. That is the southern wall of the building in the petition schedule property is also the northern wall of the building lying next south of the petition schedule building". The Commissioner has reported that there is a separate entrance, separate bath room etc. The Commissioner has also opined that it can be assumed that the petition schedule building is being used as an independent house. The question is not whether the building is used as an independent house or not but the question is whether it is a part of the building which is excluded from the purview of claiming kudikidappu under Section 2(25) of the Kerala Land Reforms Act. The materials available make it crystal clear that it is only a part and parcel of the same building and it is occupied by two tenants. The

Court below considered the matter only on the proper perspective and had arrived at a decision. I do not find any ground to interfere with the same and therefore the C.R.P. lacks merit and it is dismissed.

M.N. KRISHNAN, JUDGE.

ul/-